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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/608,615 | 06/27/2003 | Robert D. Vanderminden SR. | | 8437 |

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| EXAMINER | |
|---|---|
| CRANMER, LAURIE K | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3636 | |

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/608,615 | VANDERMINDEN, ROBERT D. | |
| | Examiner | Art Unit | |
| | Laurie K. Cranmer | 3636 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *27 June 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Coffield.

See Fig. 1C. The leg assemblies include an elongated bar (where lead line for reference numeral 112 points), and a pair of legs (the vertical members on either side of the elongated bar), and a pair of stretcher bars 110a, 110c each having a longitudinal slot for receiving an end of a fabric panel 18.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coffield as applied to claim2 above, and further in view of Gaylord.

Gaylord teaches a loop of material 36 slidably mounted in an elongated slot to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to replace the portions 12a and 12c with the loops of material as taught to be old by Gaylord thereby providing the obvious advantage of a simplified manufacturing process.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coffield as applied to claim 1 above, and further in view of Brown.

Brown teaches the conventionality of struts 31 that are pivotally connected at one end and removably connected at the other end. It would have been obvious to one of ordinary skill in the art to replace the struts of Coffield (as best seen in Fig. 1C attached between the vertical leg and stretcher bar 110c) with the removable struts as taught to be old by Brown thereby providing an alternative strut for a folding lounge which would work equally as well.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nastu in view of Coffield.

Nastu teaches an outdoor lounge comprising a pair of leg assemblies 16, 17, each including an elongated bar 24 and a pair of legs (substantially vertical portions), each leg being secured at an intermediate point thereof to the elongated bar at a respective end thereof, a pair of parallel stretcher bars 12a, 12b to which one leg of each of the legs assemblies is mounted such that the legs can be moved between an extended and a retracted position in folded over relation to one another, and wherein each leg is of a length less than the distance between the points of attachment of each leg to the stretcher bars substantially as claimed except for the leg assemblies being parallel to each other.

Coffield teaches parallel leg assemblies to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to align the legs of Nastu such that they were parallel as taught to be old by Coffield depending on the desired stability of the lounge.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knapp and Jones both teach devices similar to that of the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie K. Cranmer whose telephone number is 703-308-2115. The examiner can normally be reached on T-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 703-308-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laurie K. Cranmer
Primary Examiner
Art Unit 3636

LKC
5/18/04